

# HOUSE BILL REPORT

## HB 2303

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to increasing other tobacco products tax revenue through various measures that include the establishment of a new tax rate coupled with enhanced enforcement provisions.

**Brief Description:** Regarding other tobacco products.

**Sponsors:** Representatives Grant, Armstrong and McCoy.

**Brief History:**

**Committee Activity:**

Finance: 3/30/05, 4/15/05 [DP].

### Brief Summary of Bill

- Reduces the tobacco products tax rate from 129.42 percent to 75 percent.
- Caps the tax on cigars at the lesser of 75 percent of taxable sale price or 50 cents per cigar.
- Makes the Liquor Control Board the enforcement authority for the tobacco products tax.
- Requires licensing of distributors and retailers of tobacco products.
- Expands enforcement procedures for the tobacco products tax.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Ericksen, Hasegawa and Santos.

**Staff:** Rick Peterson (786-7150).

**Background:**

Cigarette and tobacco products taxes are added directly to the price of these goods before the sales tax is applied. The current rate for the cigarette tax is 142.5 cents per pack of 20

cigarettes. The rate for tobacco products is 129.42 percent of the wholesale price. Examples of tobacco products are cigars, pipe tobacco, and chewing tobacco.

In November 2002, the voters approved I-773 which increased the cigarette tax rate from 82.5 cents per pack to 142.5 cents per pack of 20. It also increased the tobacco products tax from 74.9 percent of wholesale price to 129.42 percent of wholesale price. Revenue from the rate increase is deposited in the Health Services Account.

The tobacco products tax of 129.42 percent is divided as follows: 48.15 percent goes to the General Fund, 64.52 percent to the Health Services Account, and the remaining 16.75 percent is dedicated to Water Quality Improvement Programs through June 30, 2021, and to the General Fund thereafter. As share of revenue, the tax is split about 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state.

The tax is based on the wholesale price. The wholesale price is the price charged by the manufacturer to a distributor.

The Department of Revenue (DOR) administers and collects the tobacco products tax. The DOR appoints enforcement officers of the Liquor Control Board (LCB) as the DOR authorized agents to engage in enforcement activities.

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### **Summary of Bill:**

The tobacco products tax is based on the taxable sales price of tobacco products. The taxable sales price of tobacco products is generally the price at which manufacturers or distributors sell products to unaffiliated distributors, retailers, or consumers.

The tobacco products tax rate is reduced to 75 percent of taxable sales price. The tax on cigars is the lesser of 75 percent of taxable sales price or 50 cents per cigar. The tax revenue is distributed as follows: 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The LCB is made the enforcement authority for tobacco products tax. Distributors (\$650 fee for one place of business plus \$115 for each additional place of business) and retailers (\$93 fee for each location) of tobacco products must be licensed. No license fee is charged if the distributor or retailer holds an equivalent license to sell cigarettes. The DOR will publish a current list of licensed distributors and retailers on their web site. Licensed distributors may only sell tobacco products to licensed retailers. Sellers of tobacco products must keep records and make them available for inspection. Criminal penalties are established for failing to obtain a license, refusal to allow inspection of place of business, failing to produce records, presenting false records, and transporting tobacco products for sale without a license or prior

notification to the LCB. Persons transporting tobacco products must possess records showing the seller and purchaser of the tobacco products. Property that is used in the illegal shipment and distribution of tobacco products may be seized. The DOR, after notification and hearing, may revoke the license of distributors and retailers that violate the tobacco products tax law.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2005.

**Testimony For:** Washington is the most attractive state to smuggle in tobacco products. Only about one-third of the tobacco products consumed in Washington are taxed. The bill is intended to make it less attractive to smuggle in tobacco products and to bring the traffic back into legal channels. Once the tax rate is reduced the tax base should grow about 3 to 5 percent per year. The bill will result in growth in the tobacco products tax, and B&O tax on wholesale and retail spending. After the bill is adopted the tobacco products tax will still be 80 cents higher than the per pack tax on cigarettes. The enforcement measures are everything the LCB needs. It gives the LCB the toughest law in the country. The enforcement methods, seizure and criminal penalties, are more like the enforcement methods for cigarettes. The additional enforcement officers will collect an additional \$4 million in tax revenue. Washington is outside the states that have reasonable taxes on tobacco products. Premium cigars are not being sold in Washington. Customers continue to smoke but do not purchase here because of the high prices. Increased enforcement alone will not fix this problem. The tax rate must also be reduced.

**Testimony Against:** This is a product that harms people. It causes severe health problems. Do not move this legislation.

**Persons Testifying:** (In support) Mark Triplett, Conwood Company and Swedish Match & Cigar Association of America; Stephen Martin, ALTADIS USA; Muhammad Usmani, retailer (Seattle); Jeff Packer, Tinder Box (Tacoma); Rex Prout, Washington State Liquor Control Board; Joe Arundel; and T.K. Bentler, Washington Association of Washington Stores.

(Opposed) Dorris Gifford.

**Persons Signed In To Testify But Not Testifying:** None.